
**IN THE MATTER OF
DR. VINCENT DECAPRIO,
BOARD OF TRUSTEE MEMBER,
NEW JERSEY INSTITUTE OF
TECHNOLOGY**

STATE ETHICS COMMISSION

Commission Case No. 08-16

DECISION

BACKGROUND

New Jersey Institute of Technology ("NJIT") requests an exception to Executive Order 14 (Corzine 2006) ("EO 14") on behalf of NJIT's Board of Trustee member Dr. Vincent DeCaprio. Dr. DeCaprio is also a shareholder in Proception Medical ("Proception"), a private company that develops medical devices.

EO 14 prohibits a member of a State college or university governing board from being employed by or deriving or receiving any compensation from a firm, association, or partnership that does business with the institution that the board member governs. The term "doing business with" is defined to mean "providing or receiving any goods or services or otherwise engaging in a transaction involving the exchange of anything of value." Pursuant to paragraph 5 of EO 14, however, the State Ethics Commission is authorized to grant exceptions from this prohibition if "in the judgment of the Executive Director, the entity that is doing business with the institution is doing so pursuant to a contract awarded in accordance with the competitive bidding laws applicable to that institution or the public interest requires an exception to be made."

APPLICATION

According to the information provided by NJIT, Proception is developing a medical device that requires a mathematical biomechanical analysis. NJIT's Department of Biomedical Engineering ("BME") is one of the few BME departments in the area that performs this analysis. Proception would like to contract with NJIT to perform the computational biomechanical analysis, which would be performed by an NJIT professor and a graduate student who is expected to develop a master's thesis on the work. The agreement entered into by Proception and NJIT would be a standard industrial research agreement that does not require approval by NJIT's Board of Trustees.

While EO 14 expressly prohibits Dr. DeCaprio, as Trustee, from owning more than one percent of the profits or assets of a company that does business with NJIT, the State Ethics Commission may grant an exception to this prohibition if the public interest requires that an exception be made. In this situation, NJIT would be providing a specialized service to Proception not only in exchange for a fee, but for the research opportunities and academic value that it would bring to the institution. NJIT maintains that the rate charged to Proception to conduct the analysis is not discounted, and there does not appear to be any discernible risk that Proception will receive

any improper or favorable treatment from NJIT due to Dr. DeCaprio's membership on the NJIT Board of Trustees. NJIT seeks to contract with Proception not only because their agreement would provide NJIT with benefits by way of monetary compensation and potential inventions, improvements and/or discoveries, but because it would support the institution's mission as a public research university by providing research opportunities for its students.

Based on the facts provided, it is in the public interest to grant an EO 14 exception to Dr. DeCaprio.

DECISION

The Commission grants Dr. Vincent DeCaprio an exception to the provisions of EO 14. In his capacity as a member of the NJIT Board of Trustees, however, Dr. DeCaprio must recuse himself from any matters involving Proception Medical.

DECISION RENDERED BY THE
STATE ETHICS COMMISSION ON
THE 15th DAY OF MARCH, 2016.